



May 11, 2022

Mr. Christopher J. Kirkpatrick  
Secretary, Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

**Re: Industry Filing 22-001 – FTX Request for Amended Derivatives Clearing Organization (DCO) Registration Order**

The Financial Technology Association (FTA) appreciates the opportunity to respond to this request for comment issued by the Commodity Futures Trading Commission (CFTC) on FTX’s Request for an Amended Derivatives Clearing Organization (DCO) Registration Order.

FTA is encouraged by the CFTC’s forward-leaning discussion and public engagement on how new financial technologies can enhance and improve markets. The CFTC’s approach is consistent with its statutory mandate to foster “responsible innovation and fair competition among boards of trade, other markets, and market participants,”<sup>1</sup> and its historical role in overseeing the safe and technology-driven evolution of markets and trading. The following comment is focused on supporting continued responsible innovation, increasing investor choice and participation in markets, and ensuring the safety and integrity of US markets.

***The Financial Technology Association and Modernizing Markets***

The FTA is a nonprofit trade organization that champions the transformative role of financial technology for American consumers, businesses, and the economy.<sup>2</sup> Representing leading fintech companies, FTA elevates fintech’s power to increase competition and drive financial inclusion through responsible products and services. As our members’ voice in Washington, FTA advocates for the modernization of financial regulation to support inclusion and innovation.

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<sup>1</sup> 7 U.S.C. § 5(b).

<sup>2</sup> FIN. TECH. ASS’N, [www.ftassociation.org](http://www.ftassociation.org) (last visited May, 11, 2022). The FTA’s members include Afterpay, Betterment, BlueVine, Brex, Carta, Figure, Klarna, Marqeta, MoneyLion, MX, Nium, Plaid, Ribbit Capital, Sezzle, Stripe, Truework, Wise, Zest AI, Zilch, and Zip.



A core pillar of the FTA’s effort to advance consumer and investor-centric financial services development in the U.S. is ensuring modern regulatory frameworks recognize the benefits of financial technology-driven innovation and accommodate new models within the regulatory perimeter. This can best safeguard consumers and investors while allowing for ongoing improvement to the status quo, including transparency, efficiency, and access.

The importance of developing forward-leaning approaches and frameworks cannot be overstated. Many valuable market opportunities have long been available only to large institutions and the select few granted access. This has limited broader retail investor participation and contributed to the widening wealth gap in the United States. Fortunately, financial technology (or “fintech”) companies are increasingly developing models that can broaden access and financial inclusion, increase transparency, mitigate traditional risks, and enhance efficiency.

To understand the current state of fintech development, it is helpful to take a step back and consider the foundational elements driving digital advancements over the last half century. These elements are relevant to the inquiries the CFTC notes it is receiving regarding the potential for non-intermediated clearing models that allow DCOs to offer directly (and clear) margined products to market participants.

The first element is the development of the internet and mobile technologies that have transformed how we communicate and transact. Direct connectivity frequently allows for the disintermediation of traditional actors and processes. Basic activities that would have required manual attention and in-person interaction a half-century ago are now automated and digital.

The second element is the development of exponentially more powerful and lower-cost computers that allow us to innovate, analyze, and execute in ways unimaginable only a few decades ago. This means that real-time analysis enables automated decision-making, immediately detecting and mitigating risks.

And the third element is the proliferation of data, including through open, public blockchains, which can feed analytics tools, foster transparency, and help improve market functions, including risk mitigation. For example, in the context of digital asset markets, data is available real-time on a 24/7 basis, which offers significant transparency benefits compared to traditional markets, where opacity and time-lags may impact data quality and proper risk assessment.



## **Promoting Innovation, Market Integrity, and Investor Protection**

In its request for comment, the CFTC notes that it is receiving multiple inquiries from DCOs interested in offering investors non-intermediated, direct access to margined products that would not clear through a futures commission merchant (FCM). Traditionally, the FCM would serve as the intermediary between the customer and the DCO and serve as a clearing member of the DCO. In a non-intermediated model, the customer engages directly with the DCO as a clearing member and would be subject to margin rules set by the DCO. In the specific proposal currently under consideration by the CFTC, the required margin levels would be automatically calculated every thirty seconds, and if they drop below-stated minimums, the DCO would automatically liquidate a portion of the customer's holdings in order to put them back into compliance with margin requirements.

The model proposed to the CFTC is consistent with the technology-driven evolution of financial services outlined above. More specifically, internet-based platforms allow for direct retail participation, digital assets trading on public blockchains yield 24/7 real-time data, and analytics tools allow for real-time decision-making and automation to advance risk mitigation efforts. The result of the model is that, subject to appropriate safeguards, the role of the traditional intermediary (here the FCM) may no longer be required or value additive. Of course, this assumes that proper risk controls, including ensuring the financial ability of the DCO to withstand potential losses, are properly imposed on the model.

While the proposed non-intermediated model is likely to drive certain benefits, including broader market participant access, increased market transparency, and reduced risk through real-time margining, it also remains likely that some customers will prefer using an FCM or that FCMs will develop new services and value propositions to attract customers. It is also true that some market participants may not prefer the real-time margining aspect of the model and instead prefer more traditional approaches offered through FCMs. FTA believes that all of these dynamics are healthy in that competition between models will drive more choice, potential market evolution, improved experiences, and measurable outcomes.

With respect to measurable outcomes, FTA recommends that in approving new business models, the CFTC consider a framework whereby the agency will revisit the performance of the new model – perhaps within a designated period of time – to assess its benefits and risks. To the extent that novel risks materialize, the CFTC should consider applying new requirements to mitigate such



risks. At the same time, as market participants and the CFTC learn of potential benefits of new models, the CFTC should look for additional ways to foster broader incorporation of such benefits into its regulated markets. This type of controlled environment will contain risk, permit innovation, and inform sound policymaking.

## **Conclusion**

FTA appreciates the opportunity to comment on the CFTC's request and commends the Agency for its forward-leaning and transparent engagement. The CFTC has an opportunity to foster innovation that leverages the benefits of modern technologies, including increased speed, efficiency, access, transparency, and risk mitigation. For this reason, FTA strongly supports creating a controlled environment, subject to appropriate safeguards, for offering new non-intermediated business models that can improve investor choice and access, while reducing certain legacy costs, inefficiencies, and risks.

Sincerely,

A handwritten signature in cursive script that reads "Penny Lee".

Penny Lee  
Chief Executive Officer  
Financial Technology Association